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8 *Horizon Global Americas, Inc.*

9
10 **UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF NEVADA**

12 ELVIRA MELENDEZ, an Individual,
13
14 Plaintiff,

15 vs.

16 HORIZON GLOBAL AMERICAS, INC.; ROE
17 1 – Trailer Manufacturer; ROE 2 – Hitch
Manufacturer; DOES II-X, inclusive; and ROE
18 CORPORATIONS IV-X, inclusive,
19 Defendants.

CASE NO.

District Court Case No. A-18-784890-C

NOTICE OF REMOVAL

20
21 **HORIZON GLOBAL AMERICAS, INC.'S NOTICE OF REMOVAL**

22 COMES NOW Defendant HORIZON GLOBAL AMERICAS, INC., by and through its
23 counsel, the law firm of STEPHENSON & DICKINSON, P.C., hereby submits this Notice of
24 Removal of Action to the United States District Court for the District of Nevada pursuant to 28
25 U.S.C. § 1332 and 28 U.S.C. § 1446.

26 Removal is appropriate pursuant to 28 U.S.C. § 1446(b) because this Court has original
27 jurisdiction over this litigation pursuant to 28 U.S.C. § 1332; the matter in controversy exceeds the
28 \$75,000.00 requirements of § 1332 as based upon Plaintiff's alleged damages, exclusive of interest

1 and costs; and diversity jurisdiction exists between Plaintiff and Defendant, on the following
2 grounds:

3 I. NOTICE OF REMOVAL

4 A) Factual Background:

5 1. On November 21, 2018, Plaintiff filed a complaint against Maikel Garcia, Rafael
6 Construction and FCA US. The action was filed in the Eighth Judicial District Court, Clark County,
7 Nevada. On May 23, 2019, an amended complaint was filed naming Jose Rodriguez and Draw-Tite,
8 Inc. as defendants. (HGA was later substituted as the correct party in place of Draw-Tite.) A
9 complete copy of the state court pleadings is included with the filing of the Index of Pleadings from
10 State Court Action filed and served concurrently herewith. An additional copy of the Index (without
11 attachments) is attached to this Notice as Exhibit A, as required by 28 U.S.C.

12 § 1446(a). A copy of the *Plaintiff's Complaint* is attached as Exhibit B. A copy of the *Plaintiff's*
13 *Amended Complaint* is attached as Exhibit C.

14 2. The action arises out of a motor vehicle accident which occurred on March 18, 2018. In her
15 complaints, Plaintiff alleged that she was travelling westbound on Lake Mead Boulevard as Mr.
16 Garcia was driving eastbound on Lake Mead Boulevard. As the vehicles approached each other, the
17 complaints allege that a trailer which was attached to Mr. Garcia's Dodge Ram pickup began to
18 come loose, fishtail, and ultimately strike Plaintiff's automobile. The complaints alleged that Mr.
19 Garcia was negligent in operating his pickup truck; that the accident occurred while he was in the
20 course and scope of his employment with Rafael Construction; that Mr. Rodriguez was negligent for
21 not using due care in attaching the trailer to the pickup truck; that FCA was liable for defects in the
22 pickup truck; and that HGA was liable for defects in the trailer ball, ball mount, and hitch pin. See
23 Exhibit C at ¶ 9-23.

24 B) Diversity Jurisdiction – Amount in Controversy:

25 3. The Plaintiff's injuries include multiple fractures to her ribs and arms as well as a closed head
26 injury. She was hospitalized for five days. Her N.R.C.P. 16.1 disclosure computation of damages
27 lists medical bills in the amount of \$252,823.16. She alleges general damages for pain and suffering
28

1 as well as loss of enjoyment of life at over \$1,000,000.00. It is respectfully submitted that the
2 amount in controversy for diversity jurisdiction has been met.

3 **C) Diversity Jurisdiction – Plaintiffs and HGA are Diverse:**

4 4. Plaintiff's complaints allege that she is a resident of Nevada. HGA maintains its principal
5 place of business in Michigan. HGA is incorporated in Michigan. Thus, Plaintiff and HGA are
6 diverse.

7 5. In the state court case, Mr. Garcia; Rafael Construction, FCA and Mr. Rodriguez have been
8 dismissed. The dates that these defendants were dismissed are as follows:

- 9 A) Mr. Garcia: September 12, 2019;
- 10 B) Rafael Construction: June 5, 2019;
- 11 C) FCA: October 11, 2019; and,
- 12 D) Mr. Rodriguez: November 19, 2019.

13 The orders dismissing these defendants are attached as composite Exhibit D.

14 6. Therefore, HGA respectfully submits that complete diversity exists between the remaining
15 parties to the case, Plaintiff and HGA.

16 **D) Removal is Timely:**

17 7. 28 U.S.C. § 1446 (b)(3) states that a notice of removal may be filed within 30 days after
18 receipt by the defendant of an amended pleading, motion, order or other paper from which it may
19 first be ascertained that the case is one which is or has become removable. 28 U.S.C. § 1446 (c)(1)
20 provides that a case may not be removed on the basis of diversity jurisdiction more than one year
21 after commencement of the action.

22 8. On November 19, 2019, the court entered a minute order granting Mr. Rodriguez motion for
23 good faith settlement, thereby dismissing him from the case. The court's minute order acts as an
24 "other paper" from which HGA ascertained that the case has become removable as all of the other
25 defendants have been dismissed as the only two remaining defendants (Plaintiff and HGA) are
26 diverse. November 21, 2019 would be the one-year anniversary of the case. Thus, this Notice of
27 removal falls within the one-year time limitation.

28

1 **II. CONCLUSION/PRAYER FOR RELIEF**

2 WHEREFORE, Defendant Horizon Global Americas, Inc. removes the above-captioned
3 action to the United States District Court for the District of Nevada.

4 DATED this 20th day of November, 2019.

5 STEPHENSON & DICKINSON, P.C.

6 By: 

7 BRUCE SCOTT DICKINSON, ESQ.

8 Nevada Bar No. 002297

9 JAMIESON N. POE, ESQ.

10 Nevada Bar No. 008228

11 2820 West Charleston Boulevard, Suite B-17

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13 P: (702) 474-7229

14 F: (702) 474-7237

15 Attorneys for Horizon Global Americas, Inc.

CERTIFICATE OF SERVICE

Pursuant to F.R.C.P. 5(b), I hereby certify that I am an employee of STEPHENSON & DICKINSON and that on this 20th day of November, 2019, I caused to be served a copy of the foregoing: DEFENDANTS HORIZON GLOBAL AMERICAS, INC.'S NOTICE OF REMOVAL on the party(s) set forth below by:

 Electronic service

 Placing an original or true copy in a sealed envelope placed for collection and mailing in the United States Mail, at Las Vegas, Nevada, postage prepaid, following ordinary business practices

 Case Management/Electronic Case Filing

 Hand Delivery – Receipt of Copy

addressed as follows:

*Al Lasso, Esq.
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Jose Ravelo Rodriguez*


Employee of STEPHENSON & DICKINSON

INDEX OF EXHIBITS

Exhibit A: *State Court Index and Record*

Exhibit B: *Plaintiffs' Complaint*

Exhibit C: *Plaintiffs' First Amended Complaint*

Exhibit D *Stipulation and Order for Dismissal of Defendant Maikel Torres Garcia with Prejudice; Stipulation and Order to Dismiss Rafael Construction, Inc.; Order Granting Defendant FCA US LLC's Motion for Good Faith Settlement Determination and Order Barring Further Claims; and Court Minutes Granting Defendant Jose Ravelo Rodriguez's Motion for Good Faith Settlement*